

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DAVID EARL MAYBERRY,)	
)	
Petitioner)	
)	
vs.)	No. CIV-05-1157-C
)	
JOSEPH SCIBANA, Warden,)	
)	
Respondent)	

ORDER

This matter is before the Court on the Report and Recommendation entered by the United States Magistrate Judge on October 25, 2005. The court file reflects that no party has objected to the Report and Recommendation within the time limits prescribed; however, on November 8, 2005, Petitioner paid the \$5.00 fee, rendering the Magistrate Judge's recommendation moot.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted in part. Petitioner's Motion for Leave to Proceed *in Forma Pauperis* is denied; but because the filing fee has now been paid, the case is once again committed to the Magistrate Judge under the initial Order of Referral.

IT IS SO ORDERED this 28th day of November, 2005.



ROBIN J. CAUTHRON
United States District Judge